

AMENDED IN ASSEMBLY AUGUST 22, 2008

AMENDED IN ASSEMBLY JULY 1, 2008

AMENDED IN SENATE MAY 6, 2008

AMENDED IN SENATE APRIL 24, 2008

SENATE BILL

No. 1762

Introduced by Senator Perata
(Coauthors: Senators Kehoe, Lowenthal, and Padilla)
(Coauthor: Assembly Member Hancock)

February 22, 2008

~~An act to add Division 25.7 (commencing with Section 38700) to the Health and Safety Code, relating to greenhouse gas reduction representations. An act to amend Section 901 of, and to add and repeal Division 1.6 (commencing with Section 3400) of, the Public Utilities Code, relating to climate change, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1762, as amended, Perata. ~~Advertising: greenhouse gas credits.~~*Energy: greenhouse gas emissions.*

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. Existing law requires the PUC to require the state's 3 largest electrical corporations, Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison, to identify a separate electrical rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and is collected on the basis of usage. Existing PUC resolutions refer to the nonbypassable rate component as a "public

goods charge.” The public goods charge moneys are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources. Moneys collected for public interest research and development are used by the State Energy Resources Conservation and Development Commission (Energy Commission) to carry out programs pursuant to the Public Interest Research, Development, and Demonstration Program.

Existing law establishes a surcharge on all natural gas consumed in the state to fund certain low-income assistance programs, cost-effective energy efficiency and conservation activities, and public interest research and development. Existing law requires a public utility gas corporation, as defined, to collect the surcharge from natural gas consumers, as specified. Existing law requires, until January 1, 2009, that funds allocated pursuant to the natural gas surcharge law for public interest energy research and development be administered by the Energy Commission consistent with orders and decisions adopted by the PUC, requires that $\frac{1}{2}$ of the funds be expended pursuant to a strategic research plan jointly developed by the State Air Resources Board and the Energy Commission, and requires that the plan be submitted to the PUC for review and approval.

Existing law requires each local publicly owned electric utility to establish a nonbypassable usage-based charge on local distribution service to fund investments in specified public purpose programs, including energy efficiency and conservation, investment in renewable energy resources, research, development and demonstration programs, and providing services for low-income electricity customers. The charge is required to be not less than the lowest expenditure of the 3 largest electrical corporations in California based on a percentage of revenue.

Existing law establishes the Air Quality Improvement Program, administered by the state board, to fund air quality improvement projects, upon appropriation by the Legislature, relating to fuel and vehicle technologies. Existing law creates the Air Quality Improvement Fund and requires the state board to expend the moneys in the fund, upon appropriation by the Legislature, to implement the program.

This bill would request the Regents of the University of California to establish the Climate Change Research and Workforce Development Institute to (A) identify and support, through a merit-based peer-reviewed competitive grant process, research, education, and

workforce training projects to be undertaken at academic and research institutions and laboratories throughout the state, (B) oversee, coordinate, and manage a single-targeted research and development program for the purposes of achieving the state's goals for reducing emissions of greenhouse gases and mitigating the effects of those emissions, (C) develop and support career paths for the workers necessary to implement the technologies and programs that provide climate change solutions, and (D) ensure that all state-funded climate change research is funded in an organized, targeted, and nonduplicative manner. The President of the University of California would be required to select an executive director to oversee the operations of the institute. The executive director would be required to create a charter and strategic plan for the institute, as provided. The executive director would be required, by January 1, 2010, and annually thereafter, to report to the Legislature on the projects funded by the institute.

This bill would create the Climate Change Research and Workforce Development Fund in the State Treasury, with the following accounts: (A) Public Interest GHG Research Account, (B) GHG Mitigation Fee Trust Account, and (C) Transportation GHG Research Trust Account. The bill would authorize moneys in the fund to be expended by the institute, upon appropriation by the Legislature. The bill would provide that not more than 5% of the fund may be expended for overhead or other administrative expenses of the institute.

This bill would require the Energy Commission, beginning with the next fiscal year following the establishment of the institute, to fund no new climate change research as part of its activities pursuant to the Public Interest Research, Development, and Demonstration Program and to annually transfer \$20,000,000 from unexpended moneys in the Public Interest Research, Development, and Demonstration Fund to the Public Interest GHG Research Account. The bill would require, until January 1, 2020, that funds allocated pursuant to the natural gas surcharge law for public interest energy research and development be expended pursuant to the strategic plan developed by the Climate Change Research and Workforce Development Institute. The bill would require that moneys allocated for public interest energy research and development pursuant to the natural gas surcharge law be deposited into the Public Interest GHG Research Account.

This bill would authorize the PUC to impose a greenhouse gases emissions mitigation fee, as a nonbypassable usage-based charge on local distribution service, upon all electricity consumed in the state

within the service territories of an electrical corporation. This authorization would become inoperable upon the elapse of 10 calendar years from the date a fee is first imposed or until January 1, 2020, whichever date occurs first. The bill would require the commission to set the amount of any fee so that consumers of electricity pay only for their fair share of the global warming harm caused by the emissions of greenhouse gases caused by the generation of the electricity consumed by the consumers and would require that the fee be consistent with all applicable legal requirements for imposing regulatory fees. Moneys collected pursuant to the fee would be deposited into the GHG Mitigation Fee Trust Account. The bill would require that the amount collected from the greenhouse gases emissions mitigation fee not exceed \$30,000,000 per year. The bill would provide that moneys deposited into the GHG Mitigation Fee Trust Account are held in trust for the benefit of ratepayers and shall only be used for research and development projects with a demonstrated and direct benefit to those ratepayers. The bill would, subject to the availability of funds, appropriate \$3,000,000 from the GHG Mitigation Fee Trust Account to the University of California for the initial administrative function costs for establishment of the Climate Change Research and Workforce Development Institute.

This bill would, if the commission imposes a greenhouse gas emissions fee on electricity consumers within the service territories of electrical corporations, require that the governing board of a local publicly owned electric utility impose a greenhouse gases emissions mitigation fee on electricity consumers within its service territory to provide funding for the institute comparable to the fee imposed by the commission. The bill would require a local publicly owned electric utility to transfer the moneys collected pursuant to the greenhouse gas emissions fee to the institute for deposit in the GHG Mitigation Fee Trust Account. By placing additional requirements upon local publicly owned electric utilities, the bill would impose a state-mandated local program.

This bill would require that if the institute is established, that the state board annually transfer \$10,000,000 from the Air Quality Improvement Fund to the Transportation GHG Research Trust Account. The bill would provide that moneys in the account are held in trust and would require that the moneys only be used for research and development projects with a demonstrated and direct likelihood of avoiding or mitigating the effects of emissions of greenhouse gases from transportation sources.

The bill would repeal the provisions relating to the Climate Change Research and Workforce Development Institute and the Climate Change Research and Workforce Development Fund on January 1, 2020.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Under existing law, a person or entity that represents that a consumer good that it manufactures or distributes is not harmful to, or is beneficial to, the natural environment, through the use of specified environmental terms, is required to maintain in written form in its records information and documentation supporting the validity of the representation, as specified. Existing law provides that it is unlawful for a person to make any untruthful, deceptive, or misleading environmental marketing claim, whether explicit or implied. A violation of these requirements is a misdemeanor.~~

~~This bill would make it unlawful for a person or entity to represent in an advertisement, in promotional material on the Internet, or in any other sales or promotional materials made available to the public, for the sale or use of a greenhouse gas credit or emission reduction, that the credit or reduction reduces greenhouse gas emissions unless certain requirements are met. The bill would also require a person or entity that represents in an advertisement, in promotional material on the Internet, or in any sales or promotional materials, for the sale or use of a greenhouse gas credit or emission reduction, that the credit or emission reduction results in a reduction of greenhouse gases to maintain in written form and make available to the public certain information and documentation supporting the validity of that representation. A violation of these provisions would be punishable by a specified civil penalty and would create a civil cause of action. Reasonable attorney fees and costs would be available for any such action brought.~~

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 901 of the Public Utilities Code is
2 amended to read:

901. (a) Funds allocated pursuant to this article for public interest energy research and development shall be administered by the Energy Resources Conservation and Development Commission consistent with orders and decisions adopted by the commission.

(b) ~~One half of funds~~ Funds allocated pursuant to this article for natural gas public interest energy research and development shall be expended pursuant to a strategic research plan jointly developed by the state Air Resources Board and the Energy Resources Conservation and Development Commission to ensure coordination of the state's energy and environmental research priorities. The plan shall be submitted for review and approval to the commission. *Climate Change Research and Workforce Development Institute pursuant to Section 3412.*

(c) Up to one-third of the funds allocated pursuant to this article may be used for transportation related public interest energy research and development provided, if the research provides natural gas ratepayer benefits and those benefits are identified in the plan.

(d) Funds allocated in subdivisions (b) and (c) shall not be used for the California Hydrogen Blueprint Plan.

(e) This section shall remain in effect until January 1, 2009 2020, and as of that date is repealed unless a later enacted statute extends or repeals that date.

SEC. 2. Division 1.6 (commencing with Section 3400) is added to the Public Utilities Code, to read:

**DIVISION 1.6. RESEARCH AND DEVELOPMENT RELATED
TO CLIMATE CHANGE**

PART 1. GENERAL PROVISIONS AND DEFINITIONS

3400. This division shall become operative only if the Regents of the University of California, by appropriate resolution, choose to create the Climate Change Research and Workforce Development Institute.

3402. The Legislature finds and declares all of the following:

(a) There is now overwhelming scientific consensus among the experts that our fossil fuel-intensive energy economy is driving climate change. The impact of climate change will be pervasive,

1 *altering our water resource base and our agricultural system, with*
2 *effects upon human and ecological health.*

3 *(b) While a global phenomena, climate change will likely impact*
4 *affluent and poorer communities differently, as well as requiring*
5 *new methods for protecting endangered ecosystems. As a society,*
6 *we must have a research base to show how fast the climate is*
7 *changing, what degree of climate protection we can implement*
8 *through low-carbon energy systems, and how we can adapt to the*
9 *climate change we cannot prevent.*

10 *(c) California has long been a leader in altering “business as*
11 *usual” carbon-intensive economic behavior and demonstrating*
12 *how those alterations can moderate greenhouse gas emissions,*
13 *and thus, the extent and pace of climate change. California must*
14 *continue and expand these efforts, and to do so will require*
15 *information, knowledge, and understanding, not only about the*
16 *science of climate change, but also about new practices to lower*
17 *energy demand, and the emerging economic and legal frameworks*
18 *that can help manage our energy demand and the impacts change*
19 *will have on the planet.*

20 *(d) The risks of climate change and the economic insecurity*
21 *that high fossil fuel energy prices have brought to California and*
22 *the global economy have unleashed a wave of efforts to set state,*
23 *national, and regional targets to safeguard the planet. Some of*
24 *the most notable are the 25-percent reduction in emissions of*
25 *greenhouse gases by 2025 and the 80-percent reduction by 2050*
26 *that California has adopted under the California Global Warming*
27 *Solutions Act of 2006 and Executive Order S-3-05, the 70-percent*
28 *or more reductions proposed in the United Kingdom, New Zealand,*
29 *and Japan, and the 100-percent fossil fuel free plans of Sweden.*
30 *These plans are consistent with the 80-percent or more reduction*
31 *in emissions of greenhouse gases that the Intergovernmental Panel*
32 *on Climate Change has determined is needed by 2050.*

33 *(e) California’s unique history in addressing climate change*
34 *includes pathbreaking scientific and technological research, as*
35 *well as the development of new economic techniques and*
36 *assessments of the social impacts of changing environmental*
37 *conditions. University of California researchers have been at the*
38 *forefront of international research efforts that have found there*
39 *can be significant local benefits to confronting climate change,*
40 *including energy savings from “greening” the state’s buildings*

1 and industries, creating job growth, and building export
2 opportunities in some of the fastest growing economic sectors.

3 (f) To maintain California's position of leadership in climate
4 science, and to address the many questions that climate change
5 brings to society, California must mobilize an unprecedented
6 network of scholars, at our universities and at Lawrence Berkeley,
7 Lawrence Livermore, Sandia, and Los Alamos national
8 laboratories, California's private universities, civic and
9 government leaders, industry associations and companies, and
10 environmental groups to create the world's leading climate
11 research and action-oriented institute.

12 (g) California has in place not only the California Global
13 Warming Solutions Act of 2006, that calls for a return to 1990
14 emissions levels by 2020 and the goal of 80 percent overall cuts
15 by 2050, as contained in Executive Order S-3-05, but also an
16 important package of policies across many state agencies that
17 need to respond to the challenge of climate change. California's
18 economy is particularly sensitive to the climate due to our reliance
19 on water storage in snowpack and our productive agricultural
20 systems, and California has unique air quality issues owing to the
21 geography of the state. These factors make California particularly
22 vulnerable to climate change and give the state a unique role in
23 addressing the problem.

24 (h) California needs to both support research and
25 implementation efforts to address the scientific issues of climate
26 change and to deploy climate-friendly energy, water, agricultural,
27 and industrial systems to benefit not only the state, but the global
28 community that often looks to innovations in California as ways
29 to address new challenges. This, in turn, provides economic
30 opportunities for California, as its science, technology, and policy
31 innovation landscape can be, and often is, exported to the rest of
32 the nation and the world.

33 (i) The pervasive nature of the threat of climate change further
34 means that coordination across not only state agencies, but also
35 local municipalities, educational institutions, and business and
36 industry sectors is vital to a successful and timely approach to
37 climate change. These functions, as well as coordination with
38 existing world-class state efforts on energy and resource
39 management and avoidance of duplication of efforts, are important
40 core missions of a climate change response initiative.

1 3404. For purposes of this division, “greenhouse gases” and
2 “greenhouse gas” have the same meaning as defined in Section
3 38505 of the Health and Safety Code.

4
5 PART 2. THE CLIMATE CHANGE RESEARCH AND
6 WORKFORCE DEVELOPMENT INSTITUTE
7

8 3410. (a) The Regents of the University of California are
9 requested to establish and administer the Climate Change Research
10 and Workforce Development Institute to the extent funds are
11 available for this purpose pursuant to Part 3 (commencing with
12 Section 3420).

13 (b) It is the intent of the Legislature that the institute do all of
14 the following:

15 (1) Identify and support, through a merit-based peer-reviewed
16 competitive grant process, research, education, and workforce
17 training projects to be undertaken at academic and research
18 institutions and laboratories throughout the state. It is the intent
19 of the Legislature that all California institutions of higher
20 education and all federal laboratories in California be eligible to
21 participate in the institute’s grant programs.

22 (2) Oversee, coordinate, and manage a single-targeted research
23 and development program for the purposes of achieving the state’s
24 goals for reducing emissions of greenhouse gases and mitigating
25 the effects of those emissions, and helping California mitigate and
26 adapt to the impacts of climate change.

27 (3) Develop and support career paths for the workers necessary
28 to implement the technologies and programs that provide climate
29 change solutions.

30 (4) Ensure that all state-funded climate change research is
31 funded in an organized, targeted, and nonduplicative manner.

32 (5) Focus on the following program areas:

33 (A) Technology research on low-carbon fuels, battery and
34 zero-emission vehicle technology, renewable energy, sequestration
35 of greenhouse gases, and other technologies that advance
36 California’s goals for reducing emissions of greenhouse gases or
37 mitigating the effects of those emissions, with an emphasis on
38 making these technologies commercially viable and available.

39 (B) Social science research to facilitate the transition to a
40 low-carbon economy by increasing knowledge about human

1 *behavior and decisionmaking to improve policies, programs, and*
2 *analytic methods and accelerate clean technology adoption and*
3 *climate-positive action.*

4 *(C) Adaptation and forecasting, including understanding,*
5 *assessing, monitoring, and predicting the effects of climate change*
6 *on California's resources, including its water supply, forests,*
7 *coastal lands, agricultural lands, species, and habitat.*

8 *(D) Green workforce development strategies, including career*
9 *exploration at the middle school level, high school career technical*
10 *education, and articulation between kindergarten and grades 1 to*
11 *12, inclusive, and certificate programs at community colleges.*

12 *(c) (1) It is the intent of the Legislature that the University of*
13 *California establish a leadership council to provide advice and*
14 *counsel to the University of California as to the direction, scope,*
15 *and progress of the Climate Change Research and Workforce*
16 *Development Institute. Responsibilities of the leadership council*
17 *would include, but are not limited to, all of the following:*

18 *(A) Providing advice and counsel on the research areas that*
19 *will best enable California to meet its greenhouse gas emission*
20 *reduction goals.*

21 *(B) Providing advice and counsel on the strategies and overall*
22 *budget of the institute.*

23 *(C) Providing advice and counsel on the university's selection*
24 *of an executive director for the institute pursuant to subdivision*
25 *(f).*

26 *(D) Reviewing and providing advice and counsel on the charter*
27 *and the strategic plan for the institute created pursuant to Section*
28 *3412.*

29 *(2) The leadership council shall meet with the executive director*
30 *semiannually, and may meet more frequently if requested either*
31 *by the leadership council or the executive director.*

32 *(d) It is the intent of the Legislature that the leadership council*
33 *be composed of all of the following:*

34 *(1) The Chairperson of the State Air Resources Board, or a*
35 *designee, as cochair.*

36 *(2) The President of the University of California, or a designee,*
37 *as cochair.*

38 *(3) The Chairperson of the State Energy Resources Conservation*
39 *and Development Commission, or a designee.*

40 *(4) The president of the commission, or a designee.*

1 (5) *The Chancellor of the California Community Colleges, or*
2 *a designee.*

3 (6) *A member appointed by the Governor to represent*
4 *environmental justice concerns.*

5 (7) *A member appointed by the Governor from the private*
6 *sector.*

7 (8) *A member appointed by the Governor selected from*
8 *nominations submitted by California's private research*
9 *universities.*

10 (9) *A member appointed by the Senate Committee on Rules.*

11 (10) *A member appointed by the Speaker of the Assembly.*

12 (e) *The appointed members of the leadership council shall serve*
13 *four-year terms, except the first term of the member appointed*
14 *pursuant to paragraph (6) of subdivision (d) shall be two years,*
15 *and the first term of the member appointed pursuant to paragraph*
16 *(9) of subdivision (d) shall be three years. The members of the*
17 *leadership council shall not receive compensation for their*
18 *services, except for reasonable expenses for attending meetings*
19 *of the leadership council or institute.*

20 (f) *The President of the University of California, in consultation*
21 *with the leadership council, shall select an executive director to*
22 *oversee the operations of the institute. The executive director shall*
23 *allocate funds for projects consistent with the strategic plan created*
24 *pursuant to Section 3412.*

25 (g) *It is the intent of the Legislature that the executive director*
26 *appoint a program council, including, but not limited to,*
27 *representatives from University of California campuses and other*
28 *California research institutes, colleges, and universities with*
29 *expertise in research and workforce development areas related to*
30 *the institute's mission, to provide input and advice to the executive*
31 *director on scientific program priorities, to assist in developing*
32 *the institute's strategic plan, to assist in developing guidelines to*
33 *assure fairness, neutrality, and adherence to principles of merit*
34 *and quality in the conduct of the programs administered by the*
35 *institute, and to provide other advice and counsel as the executive*
36 *director may request. The executive director may establish advisory*
37 *committees of experts and stakeholders.*

38 3412. (a) *The executive director shall, in consultation with*
39 *the leadership council, create a charter for the institute. The*

1 *executive director shall, in consultation with the program council*
2 *and the leadership council, create a strategic plan for the institute.*

3 *(b) The executive director shall submit the charter and the*
4 *strategic plan for the institute to the Legislature. The charter shall*
5 *be submitted by June 30, 2009. The strategic plan shall be*
6 *submitted by December 31, 2009.*

7 *(c) The strategic plan shall be consistent with Section 3410 and*
8 *shall describe how the institute will fulfill the intent of the*
9 *Legislature as described in that section. The strategic plan shall*
10 *also describe how the institute will coordinate its efforts with those*
11 *of other state, federal, and private research efforts, how the*
12 *institute will ensure on an ongoing basis that its efforts are*
13 *responsive to, and supportive of, California's greenhouse gas*
14 *reduction goals, and the research and efforts and programs that*
15 *are a priority for the institute.*

16 *(d) The executive director, after obtaining advice and counsel*
17 *from the leadership council, shall submit to the Legislature, every*
18 *three years, an updated strategic plan for the institute. The*
19 *executive director may submit amendments to the strategic plan*
20 *to the Legislature at any time.*

21 *3413. By January 1, 2010, and annually thereafter, the*
22 *executive director shall report to the leadership council and the*
23 *Legislature on the projects funded by the institute, the contribution*
24 *that each project has made towards meeting California's goals*
25 *for reducing greenhouse gas emissions, mitigating the effects of*
26 *those emissions, or helping the state adapt to the effects of climate*
27 *change, and future projects.*

28 *3414. If the Climate Change Research and Workforce*
29 *Development Institute is established, the institute shall be the only*
30 *vehicle for conducting research and development into climate*
31 *change and greenhouse gases funded in whole, or in part, through*
32 *charges imposed upon electrical corporation and gas corporation*
33 *ratepayers. The commission may authorize the use of ratepayer*
34 *funds for technology development and commercialization that is*
35 *necessary for the achievement of all cost-effective energy efficiency*
36 *resources.*

PART 3. THE CLIMATE CHANGE RESEARCH AND
WORKFORCE DEVELOPMENT FUND

3420. (a) *The Climate Change Research and Workforce Development Fund is hereby created in the State Treasury. The following accounts shall be created in the fund:*

(1) *Public Interest GHG Research Account.*

(2) *GHG Mitigation Fee Trust Account.*

(3) *Transportation GHG Research Trust Account.*

(b) *Moneys in the fund may be expended by the Climate Change Research and Workforce Development Institute, upon appropriation by the Legislature, to implement this division.*

(c) *Moneys in the fund may be expended for administrative costs only upon appropriation by the Legislature, including administrative costs incurred in collecting any fees imposed pursuant to this division. Not more than 5 percent of the fund may be expended for overhead or other administrative expenses of the institute.*

(d) *Moneys appropriated by the Legislature shall be available to the institute for encumbrance or expenditure for three fiscal years beginning with the fiscal year in which the appropriation is made.*

3422. *Moneys allocated for public interest energy research and development pursuant to Section 901 shall be deposited into the fund in the Public Interest GHG Research Account.*

3424. *If the institute is established, the State Energy Resources Conservation and Development Commission shall, beginning with the next fiscal year following the establishment of the institute, do both of the following:*

(a) *Fund no new climate change research as part of its activities pursuant to the Public Interest Research, Development, and Demonstration Program (Article 7.1 (commencing with Section 25620) of Division 15 of the Public Resources Code). The State Energy Resources Conservation and Development Commission may continue funding for any projects already being funded on the date that the institute is established.*

(b) *Annually transfer twenty million dollars (\$20,000,000) from unexpended and unencumbered moneys in the Public Interest Research, Development, and Demonstration Fund to the Public Interest GHG Research Account.*

1 3426. (a) (1) *The commission may, subject to the overall*
2 *limitation in subdivision (c), impose a greenhouse gases emissions*
3 *mitigation fee, as a nonbypassable usage-based charge on local*
4 *distribution service, upon all electricity consumed in the state*
5 *within the service territories of an electrical corporation. Any*
6 *moneys collected through a greenhouse gases emissions mitigation*
7 *fee shall be deposited in the GHG Mitigation Fee Trust Account,*
8 *and may be expended by the Climate Change Research and*
9 *Workforce Development Institute, upon appropriation by the*
10 *Legislature, for climate change and other research and*
11 *development that directly benefits ratepayers and mitigates climate*
12 *change effects associated with the burning of natural gas and the*
13 *generation of electricity to service ratepayers.*

14 (2) *The commission shall set the amount of any fee so that*
15 *consumers of electricity pay only for their fair share of the global*
16 *warming harm caused by the emissions of greenhouse gases caused*
17 *by the generation of the electricity consumed by the consumers.*
18 *Any fee imposed by the commission shall be consistent with all*
19 *applicable legal requirements for imposing fees, including the*
20 *requirements set forth in Sinclair Paint Co. v. State Bd. of*
21 *Equalization (1997) 15 Cal.4th 866.*

22 (b) *The commission's authority pursuant to subdivision (a) is*
23 *in addition to its authority pursuant to subdivision (d) of Section*
24 *890.*

25 (c) *The authority of the commission to impose a greenhouse*
26 *gases emissions mitigation fee shall become inoperative 10*
27 *calendar years from the date it is first imposed, or as of January*
28 *1, 2020, whichever date occurs first. The total amount collected*
29 *through a greenhouse gases emissions mitigation fee imposed by*
30 *the commission shall not exceed thirty million dollars*
31 *(\$30,000,000) per year.*

32 (d) *Moneys deposited into the GHG Mitigation Fee Trust*
33 *Account are held in trust for the benefit of electrical utility*
34 *ratepayers and shall only be used for research and development*
35 *projects with a demonstrated and direct benefit to those ratepayers.*

36 (e) *Subject to the availability of funds, the sum of three million*
37 *dollars (\$3,000,000) is hereby appropriated from the GHG*
38 *Mitigation Fee Trust Account to the University of California for*
39 *the initial administrative costs for establishment of the Climate*
40 *Change Research and Workforce Development Institute.*

1 3428. *If the commission imposes a greenhouse gases emissions*
2 *mitigation fee on electricity consumers within the service territories*
3 *of electrical corporations, the governing board of a local publicly*
4 *owned electric utility shall impose a greenhouse gases emissions*
5 *mitigation fee on electricity consumers within its service territory*
6 *to provide funding for the institute comparable to the fee imposed*
7 *by the commission. The local publicly owned electric utility shall*
8 *transfer the moneys collected pursuant to the greenhouse gases*
9 *emissions mitigation fee to the institute for deposit in the GHG*
10 *Mitigation Fee Trust Account.*

11 3430. *It is the intent of the Legislature that the institute seek*
12 *funding for carrying out the functions of the institute from nonstate*
13 *sources, including the federal government and private sources.*
14 *The executive director shall, in the annual report to the leadership*
15 *council and the Legislature, describe efforts each year to secure*
16 *matching funding. The Legislature expects a 100-percent match*
17 *to state-provided funding annually by July 1, 2013. The executive*
18 *director, in consultation with the leadership council and the*
19 *program council, may require grantees to secure matching funds,*
20 *in order for the institute to meet the 100-percent match expectation*
21 *of this section.*

22 3432. *If the institute is established, the State Air Resources*
23 *Board shall annually transfer ten million dollars (\$10,000,000)*
24 *from unexpended and unencumbered moneys in the Air Quality*
25 *Improvement Fund, to the Transportation GHG Research Trust*
26 *Account. Moneys in the account are held in trust and shall only*
27 *be used for research and development projects with a demonstrated*
28 *and direct likelihood of avoiding or mitigating the effects of*
29 *emissions of greenhouse gases from transportation sources.*

30
31 **PART 4. REPEAL**
32

33 3440. *This division shall remain in effect only until January*
34 *1, 2020, and as of that date is repealed, unless a later enacted*
35 *statute, that is enacted before January 1, 2020, deletes or extends*
36 *that date.*

37 SEC. 3. (a) *The State Air Resources Board shall, by July 1,*
38 *2009, determine both of the following:*

1 (1) Whether Division 1.6 (commencing with Section 3400) of
2 the Public Utilities Code became operational pursuant to Section
3 3400 of that division.

4 (2) Whether the Climate Change Research and Workforce
5 Development Institute has been established pursuant to Part 2
6 (commencing with Section 3410) of Division 1.6 of the Public
7 Utilities Code.

8 (b) If the State Air Resources Board determines that either
9 paragraph (1) or (2) of subdivision (a) has not occurred, the state
10 board shall, by January 1, 2010, report to the Legislature with
11 recommendations for the formation of a climate change research
12 and development program, to be under the auspices of the state
13 board, to be funded by a mitigation fee assessed upon emissions
14 of greenhouse gases.

15 SEC. 4. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 a local agency or school district has the authority to levy service
18 charges, fees, or assessments sufficient to pay for the program or
19 level of service mandated by this act, within the meaning of Section
20 17556 of the Government Code.

21 SECTION 1. ~~Division 25.7 (commencing with Section 38700)~~
22 ~~is added to the Health and Safety Code, to read:~~

23
24 **DIVISION 25.7. GREENHOUSE GAS REDUCTION**
25 **REPRESENTATIONS**
26

27 ~~38700. The Legislature finds and declares all of the following:~~

28 ~~(a) Global warming poses a serious challenge to the world's~~
29 ~~environment and economy.~~

30 ~~(b) With increasing concern regarding climate change, there~~
31 ~~has been an increase in the advertising, sale, and transfer of~~
32 ~~greenhouse gas emission reduction credits, offsets, and similar~~
33 ~~products designed to allow individuals or entities, or both, to~~
34 ~~purchase emission reduction credits in lieu of actually making~~
35 ~~those reductions themselves.~~

36 ~~(c) Consumers and other members of the public have few~~
37 ~~protections or standardized methods by which to ensure that they~~
38 ~~are purchasing or obtaining emission reduction credits that actually~~
39 ~~reduce greenhouse gases, reduce global warming, and improve the~~
40 ~~environment.~~

1 ~~(d) The purpose of this division is to provide consumers with~~
2 ~~the protections needed to ensure that they are purchasing credits~~
3 ~~that actually result in emission reductions and that warrant their~~
4 ~~expenditures for those credits.~~

5 38701. ~~(a) For the purposes of this division, “greenhouse gas~~
6 ~~credit,” “emission reduction,” “credit,” “offset,” “reduction,” or~~
7 ~~any similar term, means a voluntary reduction in the production~~
8 ~~of greenhouse gases undertaken for the purposes of selling, trading,~~
9 ~~or otherwise providing the credit or emission reduction to another~~
10 ~~party.~~

11 ~~(b) For the purposes of this division, “person” has the same~~
12 ~~meaning as set forth in subdivision (c) of Section 17577.1 of the~~
13 ~~Business and Professions Code.~~

14 38702. ~~It is unlawful for any person to represent in an~~
15 ~~advertisement, in promotional material on the Internet, or in any~~
16 ~~other sales or promotional materials made available to the public,~~
17 ~~for the sale or use of a greenhouse gas credit or emission reduction,~~
18 ~~that the credit or reduction reduces greenhouse gas emissions unless~~
19 ~~it meets one or more of the following conditions:~~

20 ~~(a) The credit or emission reduction has been approved by the~~
21 ~~State Air Resources Board as being in compliance with Division~~
22 ~~25.5 (commencing with Section 38500), including, but not limited~~
23 ~~to, Section 38571.~~

24 ~~(b) The credit or emission reduction complies with one or more~~
25 ~~protocols for voluntary emission reductions of greenhouse gases~~
26 ~~adopted by the California Climate Action Registry pursuant to~~
27 ~~former Chapter 6 (commencing with Section 42800) of Part 4 of~~
28 ~~Division 26, as effective on December 31, 2007.~~

29 ~~(c) The person demonstrates, and discloses in any advertising~~
30 ~~or other sales or promotional material made available to the public,~~
31 ~~that the credit or emission reduction meets all of the following~~
32 ~~conditions:~~

33 ~~(1) The credit or emission reduction is quantifiable and~~
34 ~~measurable.~~

35 ~~(2) The credit or emission reduction is surplus, and is in addition~~
36 ~~to any greenhouse gas emission reduction that otherwise would~~
37 ~~occur.~~

38 ~~(3) The credit or emission reduction is verifiable and enforceable~~
39 ~~by a state, regional, or local agency within the State of California.~~

1 ~~(4) The credit or emission reduction does not result in an~~
2 ~~increase in the emission of criteria pollutants or toxic air~~
3 ~~contaminants.~~

4 ~~(5) The credit or emission reduction does not result in adverse~~
5 ~~environmental impacts, including impacts on species, habitat,~~
6 ~~ecosystems, land use, biodiversity, air quality, water supply and~~
7 ~~quality, access to food, and production of food.~~

8 ~~38703. (a) Any person who represents in an advertisement, in~~
9 ~~promotional material on the Internet, or in any other sales or~~
10 ~~promotional materials, for the sale or use of a greenhouse gas credit~~
11 ~~or emission reduction, that the credit or emission reduction results~~
12 ~~in a reduction in greenhouse gases, shall maintain in written form~~
13 ~~and make available to the public all of the following information~~
14 ~~and documentation supporting the validity of the representation:~~

15 ~~(1) The basis for the claim, as provided under Section 38702.~~

16 ~~(2) Information on any adverse environmental or public health~~
17 ~~impacts associated with the creation and maintenance of the credit~~
18 ~~or emission reduction, including impacts on species, habitat,~~
19 ~~ecosystems, land use, biodiversity, air quality, water supply and~~
20 ~~quality, access to food, and production of food.~~

21 ~~(b) A retailer that does not initiate a representation by advertising~~
22 ~~or through other means available to the public shall not be deemed~~
23 ~~to be in violation of this section.~~

24 ~~38704. (a) A violation of this division is punishable by a civil~~
25 ~~penalty not to exceed two thousand five hundred dollars (\$2,500)~~
26 ~~per violation, and by the cost of the purchase of the credit, offset,~~
27 ~~or reduction as defined pursuant to subdivision (a) of Section~~
28 ~~38701.~~

29 ~~(b) A violation of this division creates a civil cause of action~~
30 ~~that may be brought by an individual or a district attorney.~~

31 ~~(c) Reasonable attorney fees and costs shall be available for any~~
32 ~~action brought pursuant to this section.~~

33 ~~(d) Notwithstanding any other provisions of law, a violation of~~
34 ~~this division is not a crime.~~